

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**METROPOLITAN LIFE
INSURANCE COMPANY,**

10-CV-552(Sr)

Plaintiff,

v.

CINTHIA HUTTON, et al.,

Defendants.

DECISION AND ORDER

In accordance with 28 U.S.C. § 636(c), the parties have consented to have the undersigned conduct all further proceedings in this case, including entry of final judgment. Dkt. #37.

The sum of \$202,426.96 was deposited in the Registry of this Court on December 20, 2010 by Metropolitan Life Insurance Company, representing the deposit of interpleader funds. On or about December 10, 2010, Metropolitan Life Insurance Company filed an Application for Attorney's Fees and Costs associated with this action. Dkt. #25. By its motion, Metropolitan Life Insurance Company is seeking \$3,613.50 in attorney's fees and \$637.70 in costs. *Id.* This Court heard oral argument on Metropolitan Life Insurance Company's Application on May 3, 2011. On May 3, 2011, this Court granted Metropolitan Life Insurance Company's Application and awarded it attorney's fees and costs. Dkt. #38. Therefore, it is hereby

ORDERED that the Clerk of Court, United States District Court for the Western District of New York direct First Niagara Bank, this Court's designated depository, to issue a bank draft payable to Clerk, U.S. District Court equal to the sum of 10% of the interest earned while such funds were held. Such fee is to be paid to the Treasury of the United States in accordance with law. It is further

ORDERED that from the remaining balance of the interpleader deposit including accrued interest, the sum of \$4,251.20, representing \$3,613.50 in attorney's fees and \$637.70 in costs, be paid to Schröder, Joseph & Associates, LLP, 766 Ellicott Street, Buffalo, New York 14203, as attorneys for Metropolitan Life Insurance Company. The remaining balance of the interpleader deposit including accrued interest, is to be divided and disbursed as follows: 62.5% of the remaining funds shall be paid to James I. Myers, Esq., Myers, Quinn & Schwartz LLP, 5500 Main Street, Suite 312, Williamsville, New York 14221, as attorneys for, Gabriel Hutton and Nicole Hutton; as to the remaining 37.5%, \$15,000 shall be paid to Bradley A. Hoppe, Esq., Jaeckle, Fleischmann & Mugel LLP, 12 Fountain Plaza, Suite 800, Buffalo, New York 14202, as attorneys for Cinthia Hutton; and the balance of the remaining 37.5% shall be paid to Jeffrey Gismondi, Esq., HoganWillig, 2410 North Forest Road, Suite 301, Getzville, New York 14068, as attorneys for J.E.H. and I.S.H., minors.

SO ORDERED.

DATED: Buffalo, New York
May 10, 2011

s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge